

**Neodata Product/Distribution, Inc. and Over The Road, City Transfer Drivers, Helpers, Dockmen, Warehousemen, Inside Workers, State, County, and Municipal Employees, Local 147, affiliated with the International Brotherhood of Teamsters, AFL-CIO, Petitioner.** Case 18-RC-15235

September 30, 1993

**DECISION ON REVIEW AND ORDER**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND RAUDABAUGH

On June 25, 1992, the Regional Director for Region 18 issued a Decision and Direction of Election in this proceeding finding, *inter alia*, that the unit of employees which the Petitioner seeks to represent is appropriate for collective-bargaining purposes,<sup>1</sup> and directing that an election be held among employees at the Washington facility. The Employer thereafter filed a request for review, asserting that the unit sought by the Union is inappropriate, and that the only appropriate unit is one that includes employees at both its Washington Street and 10th Street facilities. By Order dated July 23, 1992, the National Labor Relations Board granted the Employer's request for review.

The National Labor Relations Board has considered the entire record in this proceeding, including the Employer's supplemental brief in support of its request for review, and, for the reasons set forth below, agrees with the Employer that the unit sought by the Petitioner, consisting of its Washington facility employees only, is inappropriate.

The Employer, headquartered in Dallas, Texas, with facilities in Des Moines and Clarion, Iowa, is engaged in the product distribution business for the direct market industry. Currently, it provides services for 38 clients which are engaged in the direct mail business selling a variety of products such as books, records, coffee, and children's toys. To service its clients, the Employer, as noted, maintains two facilities in Des Moines, Iowa—the Washington facility and the 10th Street facility<sup>2</sup>—situated approximately 3 miles apart,

and a facility in Clarion, Iowa, located approximately 90 miles north of Des Moines.

The Employer receives approximately 250,000 orders (media) daily for its clients' products. As the orders are received at the 10th Street facility, they are loaded onto pallet jacks by loading dock employees who sort and batch the media and load them onto large trays to be transported to the mail processing area. Mail processing employees then open the mail, after which the orders received are forwarded to the file maintenance area where employees batch all similar orders together and, when possible, "scan" relevant information into the Employer's central computer system, which links all three facilities. The orders are then sent from the file maintenance area to the data input area where data key input operators manually enter customer information into the computer system.<sup>3</sup> Customer information, along with product availability information provided by the Washington facility, is sorted by the computer to produce client reports, error reports, and invoices. The invoices are then sent to the Clarion facility, where they are "burst" or separated, inserted into envelopes, and sent to the Washington facility to be filled.

At the Washington facility, where 85–90 percent of the clients' products are stored, the ordered product is packaged, invoiced, and shipped to the customer. After the product is shipped, Washington facility employees enter the shipping data into the computer. That information is needed by the 10th Street facility to initiate the billing process, to register decreases in the inventory and to update all the audit systems for the inventory. When the product is shipped, the customer is contacted either by phone or mail to ensure that it has been received. The Washington facility also handles products that are returned by customers. After determining whether the product is usable or waste, Washington facility employees again make data entries into the computer to update the inventory. There is no history of collective bargaining for any of the Employer's employees.

In finding that the unit petitioned for constitutes an appropriate bargaining unit, the Regional Director reasoned that the employees at the Washington facility were "warehouse-type" employees performing such warehouse functions as shipping, receiving, storage, order filling, and other similar duties of a "warehouse" nature, while the 10th Street employees were office clerical employees who held administrative and clerical type classifications and performed administrative, bookkeeping, accounting, computer, customer service, and other similar office type duties. He further

<sup>1</sup> The Union petitioned for a unit consisting of "[a]ll full-time and regular part-time employees employed by the Employer at 1901 Bell Avenue and 2301 Fleur Drive, Des Moines, Iowa, including leads; excluding employees at its 10th Street facility, contract employees, confidential employees, managers, office clerical employees, professional employees, guards and supervisors as defined in the Act." It appears from the record that the Bell Avenue and Fleur Drive facilities, located across a parking lot from each other, were scheduled to be merged and relocated to a single facility located at East Washington Street, in Des Moines. Both facilities shall jointly be referred to here as the Washington facility.

<sup>2</sup> As of the date of the hearing, the Employer employed 88 unit employees (referred to as "non-exempt" in the record) at the Washington facility, and 660 such employees at the 10th Street facility.

<sup>3</sup> The Employer also employs part-time home workers, who are located throughout the Des Moines area, to perform the same function as the data operators.

relied on the presumption that single-facility units are appropriate for collective-bargaining purposes.

However, in characterizing the Washington facility employees as simply “warehouse-type” employees, and the 10th Street employees as merely administrative and clerical type employees, the Regional Director oversimplified the nature of the Employer’s business operations, and did not give sufficient consideration to the fact that, notwithstanding their physical separation, these two facilities are closely integrated with each other functionally, and effectively operate as a single unit. Thus, the employees at each facility participate equally and fully at various stages in the Employer’s overall production process, which consists of the processing and filling of customer orders for its clients’ products. As noted, both facilities are linked to a central computer system which employees at both facilities use to advise each other of the availability of a client’s product, of customer shipping information, and of other related data. Employees at both facilities work together to accomplish the Employer’s ultimate production goals of receiving orders and thereafter assuring the prompt delivery of the client’s product to a customer. Thus, it is clear that, despite being physically separate from each other, the Washington and 10th Street employees constitute integral and indispensable parts of a single “order flow process.”<sup>4</sup>

Many of the skills used and functions performed by employees at both locations are virtually identical. Thus, merchandise handlers at the Washington facility routinely and regularly perform computer “scanning” and data entry work on newly received, ordered, or returned products, similar to that performed by file maintenance and data entry employees at the 10th Street facility on incoming orders. Mail processing employees at the 10th Street facility perform the same sorting and bundling functions that are performed by receiving employees at the Washington facility. Inventory supply clerks at both locations likewise perform essentially the same function, e.g., the storage and handling of client forms and the conduct of monthly inventories of clients’ stock, using identical equipment to move around the more than 50 million forms which the Employer stores for its clients.<sup>5</sup> Significantly, we note that the inventory supply clerks at both facilities are directly supervised by the same individual, 10th Street Purchase Coordinator Jerry Zuffa.

Contrary to the Regional Director, the record reveals that a number of employees at both facilities have frequent personal, as well as telephonic, contact with each other. Thus, approximately once or twice a week, three to four employees from the 10th Street facility go to

the Washington facility to retrieve needed information or data, and are assisted in their duties by employees at the Washington facility. The Employer also routinely performs, at a client’s request, a “complete physical” of the client’s account. This requires that a physical count be made of every item, e.g., forms and merchandise owned by the client and stocked at the Washington and 10th Street facilities. Because most of the client forms are stored at the Washington facility, 10th Street employees are sent to the Washington facility to accomplish this task. The Employer also conducts over 24 audits per year during which Washington and 10th Street employees work together pulling all orders that have been placed by customers and verifying the number of customers who have paid full price for subscriptions.

In addition to the aforementioned personal contact, employees at both facilities are in daily contact with each other by phone and by facsimile transmissions. Thus, several times each day, customer representatives at the 10th Street facility talk with employees at the Washington facility to determine the availability and location of a product, to request that media be pulled and checked, and to communicate changes in a client’s promotions. Further, “return recorders” at the Washington facility, who “scan” into the computer information regarding a returned product, communicate daily with programmers and client account representatives at the 10th Street facility to clear up any errors that might have occurred previously during the processing of an order. To resolve discrepancies in client postal accounts, accounting department employees at the 10th Street facility make frequent calls, as well as monthly visits, to the Washington facility.

Employees are able to transfer from one facility to the other. As noted, vacancies at either the Washington or the 10th Street facility are posted at both locations, and employees at both facilities may bid on the posted jobs and may transfer from one location to the other. Kipp testified without contradiction that during the past 6 years 20 employees have transferred from the 10th Street facility to the Washington facility, and approximately 17 Washington facility employees transferred to the 10th Street facility.

Employees at both facilities receive the same fringe benefits, including medical and dental coverage, life insurance, accidental death and dismemberment and long-term disability coverage, vacation and sick leave benefits, 10 paid holidays, bereavement leave and jury duty leave, and medical and personal leave. Both groups of employees also receive the same amount of time for breaks and meals, are subject to the same employee handbook, and are under the same employee appraisal system. Employees from both locations also attend the same quarterly meetings during which they are updated on the Employer’s business results for the

<sup>4</sup> See *Avon Products*, 250 NLRB 1479 (1980); *Scholastic Magazines*, 192 NLRB 461 (1971).

<sup>5</sup> Due to space limitations, 85–90 percent of the clients’ stock and forms are stored at the Washington facility.

prior quarter, and attend company picnics and an annual award banquet. Newly hired employees at both locations take part in the same orientation program.

Other factors also indicate a close link between the two facilities. Control over the daily operation and labor relations policy at both facilities rests with the Employer's director of operations, Bob Christiansen, in conjunction with its manager of personnel and administration, Susan Kipp. While plant managers at each facility retain some degree of autonomy, they are also constrained in a number of significant respects by controls imposed from headquarters. Thus, Christiansen sets the production goals for each facility and determines the number of shifts to be worked at each facility as well as the number of employees to be used in each department at both facilities. While plant managers have authority to make purchases, such purchases are limited to \$200, with approval needed from Christiansen if the purchase is to exceed that amount.

All requests for hiring must first be approved by Christiansen. Thus, if a plant manager seeks to hire a new employee, he must submit a request to Christiansen who may approve it based on need and budgetary requirements. Similarly, a plant manager may not discharge an employee or issue a written disciplinary notice without having it approved first by Christiansen, and ultimately by Kipp. Kipp testified, without contradiction, that she has declined to follow a plant manager's recommendation to discipline or discharge an employee about 20 percent of the time. According to Christiansen, on "multiple occasions," his approval of recommendations made by plant managers regarding written disciplinary action or termination of an employee has been overridden by Kipp's personnel office. Kipp's office also oversees and must approve appraisals of employees and recommendations for pay increases recommended by an employee's immediate supervisor. Kipp generally approves the rating and wage increases but, where a supervisor and a plant manager disagree over an appraisal or the amount of a wage increase, Kipp has final authority of the matter.<sup>6</sup>

<sup>6</sup>We emphasize that the evidence of both common benefits and top level constraints on local supervision is a very minor part of the

The foregoing facts, especially in light of the symbiotic relationship of the two facilities as a part of the Employer's "order flow" process, persuade us that any presumption favoring a single-facility unit limited to the Washington facility employees only has been overcome in this case. See, e.g., *Sol's*, 272 NLRB 621 (1984); *Orkin Exterminating Co.*, 258 NLRB 773 (1981). Thus, the appropriate unit in this case must include employees of both the Washington and 10th Street facilities.<sup>7</sup>

As the unit found appropriate here is substantially larger than that sought by the Petitioner, and as there is no indication that the Petitioner is interested in representing employees in the broader unit, we shall dismiss the petition.

### ORDER

IT IS ORDERED that the petition in Case 18-RC-15235 is dismissed.

case for finding that only a multifacility unit is appropriate here. The presence of that evidence merely slightly strengthens the case for our ultimate finding. We in no way seek to cast doubt on prior decisions in which similar instances of common benefits and overall direction of labor policy have been deemed insufficient to rebut the finding of single-facility appropriateness. See, e.g., *Red Lobster*, 300 NLRB 908, 912 (1990); *Electronic Data Systems Corp. v. NLRB*, 938 F.2d 570 (5th Cir. 1991), and cases cited at fn. 7, *infra*.

<sup>7</sup>The Regional Director's reliance on *Esco Corp.*, 298 NLRB 837 (1990); *Bowie Hall Trucking*, 290 NLRB 41 (1988); and *Birdsall, Inc.*, 268 NLRB 186 (1983), is misplaced. Unlike here, where the Washington and 10th Street facilities are relatively close to each other and there is frequent contact between both groups of employees, in *Esco Corp.*, and *Bowie Hall*, *supra*, the Board found that the presumption favoring a single-facility unit had not been overcome because the facilities in question in those cases were separated by great distances and the employees of the facilities had little or no contact with each other. Similarly, in *Birdsall*, *supra*, the Board declined to include in a warehouse unit employees who were engaged in traffic, data processing, insurance, and administration departments because, *inter alia*, the latter employees had little or no contact or interchange with the warehouse employees and were essentially engaged in performing paperwork and other purely clerical functions. Here, unlike in *Birdsall*, both groups of employees have daily contact with each other and form integral parts of the order-flow process.